

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EMMANUEL JOHN,

Defendant.

**8:19-CR-119**

**ORDER**

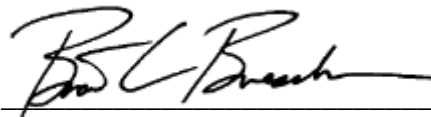
This matter is before the Court to conduct an initial review of defendant Emmanuel John's Motion to Vacate, [Filing 158](#), pursuant to [28 U.S.C. § 2255\(b\)](#). The judge receiving a [§ 2255](#) motion to vacate must first determine if "it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief." Rule 4(b) of the Rules Governing Section 2255 Proceedings. "Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief," the Court must order the United States to respond and consider holding a hearing. [28 U.S.C. § 2255\(b\)](#); *see also* Rule 4(b) of the Rules Governing Section 2255 Proceedings.

Having conducted an initial review, the Court cannot conclude that it "plainly appears" that John is not entitled to relief. Therefore, the Court orders the United States to respond to John's Motion within fourteen (14) days of the date of this order. The Court defers determining whether to hold a hearing until it has reviewed the United States' response. Accordingly,

IT IS ORDERED that the United States shall respond to Emmanuel John's Motion to Vacate, [Filing 158](#), within fourteen (14) days of the date of this order.

Dated this 28th day of March, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B.C. Buescher", written over a horizontal line.

Brian C. Buescher  
United States District Judge